



GOVERNOR'S OFFICE OF
BUDGET AND PROGRAM PLANNING

Fiscal Note 2009 Biennium

Bill #	HB0849	Title:	Revise environmental laws
Primary Sponsor:	Ripley, Rick	Status:	As Introduced

- | | | |
|---|--|--|
| <input type="checkbox"/> Significant Local Gov Impact | <input checked="" type="checkbox"/> Needs to be included in HB 2 | <input checked="" type="checkbox"/> Technical Concerns |
| <input type="checkbox"/> Included in the Executive Budget | <input type="checkbox"/> Significant Long-Term Impacts | <input type="checkbox"/> Dedicated Revenue Form Attached |

FISCAL SUMMARY

	<u>FY 2008 Difference</u>	<u>FY 2009 Difference</u>	<u>FY 2010 Difference</u>	<u>FY 2011 Difference</u>
Expenditures:				
State Special Revenue	\$0	\$0	\$445,000	\$445,000
Revenue:				
Orphan Share SSR Account	\$0	\$0	(\$3,313,992)	(\$3,316,085)
Restore Montana SSR Account	\$0	\$0	\$3,314,042	\$3,316,135
Net Impact-General Fund Balance:	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

Description of Fiscal Impact:

Starting in FY 2010, this bill directs that the 2.95% of the state share of oil and natural gas production taxes that under current law is deposited in the Orphan Share Account will instead be deposited in the Restore Montana Account in the State Special Revenue Account.

FISCAL ANALYSIS

Assumptions:

1. Section four of this bill instructs the DNRC to adopt rules to implement sections one and two of this bill.
2. Section five of this bill creates a Restore Montana Account in the State Special Revenue (SSR) Fund. The money in the fund is to be administered by the DNRC for reimbursing claims and funding grants under this act, and DNRC administrative costs under this act. Funds distributed to the fund from the oil and natural gas production tax and interest earned are to be deposited in the fund.
3. Section 10 of this bill specifies that any department, agency, board, commission, or other division of state government or any city, county, consolidated government, other political subdivision, any tribal

government, or any private entity within the state may apply for a grant from the Restore Montana Account for projects under the act, and allows the DNRC to charge an application fee of \$25 to defray administrative expenses.

4. Section 13 of this bill amends 15-36-331, MCA, to allocate 2.95% of the state share of the oil and natural gas production tax to the Restore Montana SSR Fund. Under current law, this 2.95% is allocated to the Orphan Share SSR Fund.
5. Section 14 of this bill amends 75-10-743, MCA (orphan share account). Subsection (2)(d) which refers to funds allocated to this account from the oil and natural gas production tax is deleted. Subsections (9) and (10) which allow the DNRC to transfer funds from the orphan share account to the environmental quality protection fund and the hazardous waste/CERCLA account are deleted.
6. Under both current law and the proposed law, 90.22% of the state share of the oil and natural gas production tax is allocated to the general fund. The HJR2 estimates for general fund revenues from the oil and natural gas production tax are \$101,224,000 for FY 2008 and \$101,288,000 for FY 2009. For purposes of this fiscal note it is assumed that the annual increase for FY 2010 and FY 2011 is the same as the increase for FY 2009, \$64,000. The estimated general fund revenues are \$101,352,000 for FY 2010 and \$101,416,000 for FY 2011. The estimates for the 2.95% of the state share of the oil and natural gas production tax allocated to the Restore Montana SSR fund or the Orphan Share SSR fund are \$3,309,807 ($2.95 / 90.22 \times \$101,224,000$) for FY 2008, \$3,311,900 ($2.95 / 90.22 \times \$101,288,000$) for FY 2009, \$3,313,992 ($2.95 / 90.22 \times \$101,352,000$) for FY 2010, and \$3,316,085 ($2.95 / 90.22 \times \$101,416,000$) for FY 2011. Under current law, these amounts will continue to be allocated to the Orphan Share SSR fund. Under the proposed law, the FY 2008 and FY 2009 amount will be allocated to the Orphan Share SSR fund, and in FY 2010, and FY 2011 amounts will be allocated to the Restore Montana SSR fund.

Department of Natural Resources and Conservation (DNRC)

7. There are sites in Montana damaged by resource activities.
8. Costs reimbursed by grants are limited to the funds available.
9. Projects must meet program requirements and be documented to be reimbursed.
10. Four FTE will be needed to administer the program including salary and benefits of \$320,000 a year.
11. Operating costs for administration are estimated at \$125,000 per year, \$100,000 for contract services and \$25,000 for miscellaneous expenses.
12. It is assumed that both grants and operations will be paid for from the Restore Montana account.
13. An estimated two applications will be received per year at \$25 each for a total of \$50 a year.

Department of Environmental Quality (DEQ)

14. This diversion of the Oil and Gas Tax from the orphan share program at the DEQ will eventually cause the fund balance in the orphan share account to be insufficient to pay valid claims or make statutory transfers to the Zortman/Landusky trust for water treatment as stated in 75-10-743, MCA, (\$1.2 million per year).
15. Liabilities that are currently pre-qualified for reimbursement from the orphan share account include: \$1.5 million for CMC Bozeman (Library), \$1.5 million for Joslyn Street Tailings, \$11,424,000 to \$20,000,000 for S&W Sawmill-Darby.
16. The best estimate by DEQ at this time is the fund balance in the orphan share account will be depleted by FY 2015. The timing of claims submitted for reimbursement under this account is beyond the department's control, thus the exact timing of when the fund balance in orphan share would be depleted is estimated.

	<u>FY 2008 Difference</u>	<u>FY 2009 Difference</u>	<u>FY 2010 Difference</u>	<u>FY 2011 Difference</u>
<u>Fiscal Impact:</u>				
FTE	0.00	0.00	4.00	4.00
<u>Expenditures:</u>				
Personal Services	\$0	\$0	\$320,000	\$320,000
Operating Expenses	\$0	\$0	\$125,000	\$125,000
TOTAL Expenditures	\$0	\$0	\$445,000	\$445,000
<u>Funding of Expenditures:</u>				
State Special Revenue (02)	\$0	\$0	\$445,000	\$445,000
<u>Revenues:</u>				
Orphan Share SSR Account	\$0	\$0	(\$3,313,992)	(\$3,316,085)
Restore Montana SSR Accou	\$0	\$0	\$3,314,042	\$3,316,135
TOTAL Revenues	\$0	\$0	\$50	\$50
<u>Net Impact to Fund Balance (Revenue minus Funding of Expenditures):</u>				
Orphan Share SSR Account	\$0	\$0	(\$3,313,992)	(\$3,316,085)
Restore Montana SSR Accou	\$0	\$0	\$2,869,042	\$2,871,135

Effect on County or Other Local Revenues or Expenditures:

1. In the future, potentially liable persons under state superfund law (CECRA) would have to submit applications for grants in order to fund the orphan share liability for cleanup costs at state superfund sites.
2. In the future no funding would be available for orphan share liability because the program income would be distributed through the grant process to a larger audience under a program with different priorities.

Long-Range Impacts:

1. In approximately FY 2015, the fund balance in the Orphan Share Account will not be sufficient to meet the statutory obligations of the account.

Technical Notes:

1. Coordination between agencies will need to be developed.
2. Section 6(2) implies that reimbursement is payable only for "completed actions." It is not clear what this term means. Section 6(3) does not appear to require that a restoration be completed prior to reimbursement.
3. Section 7(3) provides that payments may not be made for restoration costs incurred before approval of a "plan" by DEQ. It does not indicate to what "plan" the bill is referring. HB 849 does not require submission of a plan.
4. Section 6(4) provides a statute of limitations for cost recovery following "expiration of the period for appeal or the final decision on appeal." However, HB 849 does not provide for an appeal.
5. Section 8(5) requires DNRC to issue a letter to persons who were not previously given notice. However, it does not indicate what must be in the letter or what the contents of the previous notice are.
6. Section 8(5) authorizes DNRC to issue a letter to a person DNRC identifies pursuant to subsection (7). However, subsection (7) does not contain an identification process.

7. Section 9(7)(e) requires the parties to an allocation to enter into an agreement to determine how restoration actions will be conducted. However, the bill does not contain a process or standards for determining what restoration actions should be taken.

Sponsor's Initials

Date

Budget Director's Initials

Date